

## Message Text

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ORIGIN SS-15

INFO OCT-01 EUR-12 NEA-09 ISO-00 COME-00 L-02 OPIC-03

SP-02 AID-05 EB-07 NSC-05 CIEP-01 TRSE-00 STR-04

OMB-01 CEA-01 CIAE-00 INR-07 NSAE-00 H-02 SSO-00

NSCE-00 USIE-00 INRE-00 /077 R

DRAFTED BY E:RMPOATS

APPROVED BY NEA/IRN:CNAAS

S/S - YM F TIZ

COMMERCE:PHALE (DRAFT)

EB:RJSMTTH (DRAFT)

L/E:SBOND (DRAFT)

L - MR. FELDMAN(DRAFT)

----- 101266

O 111859Z APR 75

FM SECSTATE WASHDC

TO AMEMBASSY TEHRAN IMMEDIATE

INFO AMEMBASSY PARIS IMMEDIATE

C O N F I D E N T I A L STATE 083069

E.O. 11652: GDS

TAGS: EINV, EAID

SUBJECT: AMENDMENT OF BILATERAL INVESTMENT GUARANTY  
AGREEMENT

REF: STATE 68703

PARIS (FOR ROBINSON)

1. REFTTEL PARA 13 PROMISED DRAFT US TEXT OF REVISED  
INVESTMENT GUARANTY AGREEMENT CONTAINING ELEMENTS OF  
RECIPROCITY DESIRED BY GOI. CONSULTATIONS HERE HAVE  
CONCLUDED THAT ALL LIKELY AND ACCEPTABLE ADDITIONAL  
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FEATURES OF SUCH REVISED AGREEMENT COVERING RIGHTS AND

OBLIGATIONS ALREADY ARE CONTAINED IN U.S.-IRAN TREATY ON AMITY, ECONOMIC RELATIONS AND CONSULAR RIGHTS, SIGNED IN TEHRAN 1955 AND RATIFIED BY U.S. SENATE IN 1957.

2. IT WOULD BE POSSIBLE TO REITERATE IN SUMMARY FORM THE KEY FEATURES OF 1957 TREATY REGARDING INVESTMENT IN A FRESH PREAMBLE TO EXISTING OPIC BILATERAL, INCORPORATING AT THE SAME TIME THE AMENDMENT REGARDING OPIC INSURANCE OF CERTAIN CONTRACTS OF U.S. COMPANIES IN IRAN WHICH WAS PROPOSED TO GOI IN JANUARY. THIS WOULD ADD NO NEW OR SPECIAL ENCOURAGEMENT TO OR PROTECTION OF IRANIAN INVESTMENT IN THE U.S.

3. BEFORE UNDERTAKING FORMAL CLEARANCE PROCESS FOR AUTHORIZING NEGOTIATION OF REVISED AGREEMENT, PER PARA 2 ABOVE, AND BEFORE GOI GOES ON RECORD WITH ITS PROPOSED DRAFT, GOI SHOULD BE ENCOURAGED TO RECONSIDER WHETHER 1957 AER TREATY, WHICH IS FULLY RECIPROCAL, MEETS IT OBJECTIVES. IT SHOULD BE POINTED OUT THAT AN AMENDMENT TO THIS TREATY OR TO OPIC BILATERAL CONTAINING SUBSTANTIVE NEW IRANIAN RIGHTS OR USG OBLIGATIONS WOULD REQUIRE INSTITUTION OF LENGTHY TREATY PROCESSES INCLUDING SENATE RATIFICATION. SINGLING OUT OF IRAN FOR SUCH INVESTMENT ENCOURAGEMENT AT THIS TIME OF CONTROVERSY REGARDING INVESTMENT BY OIL PRODUCER COUNTRIES IN THE U.S. WOULD RAISE USG POLICY QUESTIONS AS WELL AS CONGRESSIONAL ISSUES.

4. ANY NEW OPIC AGREEMENT INVOLVING RECIPROCAL OBLIGATIONS RAISES A NUMBER OF MAJOR ISSUES WHICH WOULD REQUIRE CAREFUL CONSIDERATION AND PRIOR RESOLUTION WITHIN THE USG. THESE INCLUDE:

(A) AN AGREEMENT ENCOURAGING FOREIGN INVESTMENT IN THE UNITED STATES WOULD NOT BE CONSISTENT WITH OUR BASIC POLICY OF NEUTRALITY TOWARDS FOREIGN INVESTMENT.

(B) SPECIAL ENCOURAGEMENT OF INVESTMENT FROM PARTICULAR FOREIGN SOURCE WOULD FORCE US TO OFFER SIMILAR TREATMENT TO INVESTMENT FROM OTHER SOURCES, UNLESS WE  
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WERE PREPARED TO BREAK WITH TRADITIONAL POLICY OF NON-DISCRIMINATION, WHICH IN TURN MIGHT INVOLVE VIOLATION OF MFN PROVISIONS OF OUR FCN TREATIES.

(C) OUR INFORMAL UNDERSTANDINGS WITHIN OECD THAT MEMBER COUNTRIES SHOULD NOT PUT IN PLACE SPECIAL INCENTIVES TO ATTRACT OIL PRODUCER FUNDS WOULD BE CALLED INTO QUESTION.

(D) LACK OF QUID PRO QUO FROM IRANIANS, E.G.,  
SETTLEMENT OF LEND LEASE DEBT OR FIRM COMMITMENT TO  
ADVANCE CONSULTATIONS ON ALL MAJOR INVESTMENTS IN  
UNITED STATES.

5. WITH REGARD TO QUID PRO QUO FROM IRANIANS, E.G.,  
PLACED IN POSITION OF GIVING ANYTHING FOR IRANIAN  
AGREEMENT TO NEW OPIC ARRANGEMENTS. THE OPIC PROGRAM IS  
AN ACCOMMODATION TO IRAN TO ASSIST IN ATTRACTING NEEDED  
TECHNOLOGY WHICH WE ARE PREPARED TO MAKE AVAILABLE IF  
IRAN WANTS IT.

6. POATS WILL BRING TENTATIVE DRAFT ALONG LINES PARA 2  
ABOVE. HOWEVER, IN VIEW OF BROAD QUESTIONS RAISED BY  
RECIPROCAL AGREEMENT AND LACK OF TIME TO RESOLVE THEM,  
US SHOULD NOT, UNDER ANY CONDITIONS, INITIATE DISCUSSION  
OF RECIPROCAL GUARANTIES ISSUE OR, IF BROUGHT UP BY GOI,  
TABLE DRAFT AGREEMENT, AS EVEN INFORMAL TABLING WOULD  
INDICATE TO GOI A DEGREE OF USG SUPPORT FOR CONCEPT  
WHICH AT PRESENT DOES NOT EXIST. DRAFT MAY BE USED AS  
BASIS FOR TALKING POINTS, WITH CLEAR INDICATION THAT THE  
CONCEPT HAS NOT AS YET BEEN DISCUSSED WITHIN USG, AND  
THAT IT WOULD BE DIFFICULT FOR ADMINISTRATION TO GO TO  
CONGRESS WITH TREATY UNDER EXISTING CIRCUMSTANCES.

7. FYI. WE RECOGNIZE THAT A NEW RECIPROCAL AGREEMENT  
COULD SERVE TO WEAKEN THE 1970 AMENDMENT TO THE 1957  
GUARANTY OPIC AGREEMENT (THE 1970 AGREEMENT COMMITS THE  
U.S. TO AN UNCONSTITUTIONAL COURSE OF ACTION AND CANNOT  
BE ENFORCED WITHOUT THE ACCORD OF CONGRESS.). HOWEVER,  
THIS IS NOT REASON ENOUGH FOR US TO GO FORWARD AT THIS  
TIME. IRAN WOULD PROBABLY NOT PERMIT THE 1970 AGREEMENT  
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TO BE WEAKENED, AND THE USG COULD NEVER EXPLAIN TO  
INTERESTED COUNTRIES THAT A NEW OPIC AGREEMENT WAS  
ENTERED INTO IN ORDER TO WEAKEN A PREVIOUS COMMITMENT.  
THEREFORE, ALL OF POLICY COMPLICATIONS RAISED PARAS 4 AND  
5 ABOVE WOULD STILL BE PRESENT. END FYI.

7. FYI. IN DRAFT AGREEMENT OF POATS, TITLE OF  
AGREEMENT SHOULD BE CHANGED AS FOLLOWS: DELETE WORDS  
QUOTE PROMOTION AND PROTECTION OF INVESTMENTS UNQUOTE  
AND SUBSTITUTE QUOTE GUARANTY OF PRIVATE INVESTMENTS  
UNQUOTE. THIS ACCORDS WITH OTHER CHANGES MADE IN TEXT.  
END FYI. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** ECONOMIC ASSISTANCE, AGREEMENTS, AMENDMENTS, INVESTMENT GUARANTEES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 11 APR 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** buchandr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975STATE083069  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** RMPOATS  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D750127-0578  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1975/newtext/t19750457/aaaacawx.tel  
**Line Count:** 166  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN SS  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 STATE 68703  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** buchandr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 15 MAY 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <15 MAY 2003 by izenbei0>; APPROVED <01 OCT 2003 by buchandr>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
05 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** AMENDMENT OF BILATERAL INVESTMENT GUARANTY AGREEMENT  
**TAGS:** EINV, EAID, IR, US, OPIC  
**To:** TEHRAN  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006